HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.14787 of 2004

Dated:02.03.2007

Between:

K.Kishore Reddy.

…Petitioner.

and

The Sub-Registrar, and another.

…Respondents

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.14787 of 2004

ORDER:

The petitioner purchased a plot, bearing No.44, admeasuring 444.44 square yards, in Sy.No.74/5 situated at Santoshnagar Co-operative Housing Society Limited, Secunderabad, through a sale deed, dated 26.08.1995, from one Mr.P.Parameswaran, for a valid consideration of Rs.1,80,000/-. When the document was presented before the

1st respondent for registration, he did not accept the value of the transaction, in the context of payment of stamp duty and registration fee and referred the matter to the 2nd respondent under Section 47-A of the Indian Stamp Act, 1899 (for short 'the Act'). Through his orders, dated 30.08.2001, the 2nd respondent passed an order holding that the value of the property is Rs.1,600/-, per square yard. Aggrieved by the said order, the petitioner filed C.M.A.No.347 of 2001 in the Court of Chief Judge, City Civil Court, Hyderabad, under sub-sections (4) and (5) of Section 47-A of the Act. The C.M.A., was partly allowed on 01.11.2002, determining the value of the property at Rs.800/-, per square yard. The grievance of the petitioner is that though more than

four years have elapsed, the

1st respondent is neither receiving the balance of the stamp duty, nor releasing the document. Hence, he seeks appropriate directions in this regard.

On behalf of the respondents, a counter-affidavit is filed. The fact that the value of the property determined in C.M.A.No.347 of 2001 at Rs.800/-, per square yard, is admitted. However, it is pleaded that while the proceedings under Section 47-A of the Act were pending, the Government issued notification under Section 22-A of the Registration Act through G.O.Ms.No.365, Revenue (Registration-I), dated 30.05.2000, prohibiting registration of the properties in Sy.No.74 of Marredpally. It is urged that since the property in question is part of the said survey number, the document could not be released.

Heard learned Counsel for the petitioner and learned Government Pleader for Revenue.

The issue relating to determination of the correct value of the property for the purpose of computing the stamp duty and registration fee was pending till 01.11.2002, before one forum or the other. Ultimately, the value was determined at Rs.800/-, per square yard. The respondents felt that the notification issued by the Government under Section 22-A of the Registration Act, in respect of land in Sy.No.74, comes in the way.

It is not in dispute that the property in question falls in Sy.No.74. If the notification issued by the Government under Section 22-A of the Act is enforceable, no exception can be taken to the inaction of the respondents in releasing the document. Recently, this Court held that Section 22-A of the Act is *ultra virus* and it was struck down. Therefore, the notification issued by the Government in G.O.Ms.No.365, dated 30.05.2000, cannot be treated as any basis for withholding registration of the document presented by the petitioner.

For the foregoing reasons, the Writ Petition is allowed and the

1st respondent is directed to collect the deficit stamp duty and

registration fee from the petitioner and release the document, if it is otherwise in the order, within six weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

Dt.02.03.2007 **L.NARASIMHA REDDY, J**

GJ